

Remarks/Arguments

Prior to the present amendment, claims 44-46, 50 and 51 were pending in this application and were rejected on various grounds. The rejections to the presently pending claims are respectfully traversed.

Withdrawal of Rejections

Applicants thank the Examiner for withdrawal of all objections to the specification and to claim 44, and for withdrawal of rejections under 35 U.S.C. §101 for lack of utility, 35 U.S.C. §112, first paragraph for lack of enablement and lack of written description, under 35 U.S.C. §112, second paragraph and under 35 U.S.C. §102(b) over Wood *et al.*

Claim Rejections – 35 USC § 102(b) and 103(a)

Claims 44-46, 50 and 51 were rejected under 35 U.S.C. §102(b) as being anticipated by, or, in the alternative, under 35 U.S.C. §102(a) as obvious over, WO 98/39443- Gebe *et al.*

Gebe *et al.* discloses a polynucleotide sequence with 99.7% sequence similarity to SEQ ID NO: 147 of the present invention. The Examiner alleges that the single nucleotide difference at the C-terminus between the two sequences could be a sequencing error and has asked Applicants to provide evidence to the contrary.

Applicants submit Exhibit A which compares the amino acid sequence encoded by the presently claimed nucleic acid with the amino acid sequence encoded by the nucleic acid of Gebe *et al.* and submit that there is no sequencing error, thereby confirming that the last amino acid at position 347 of the instant sequence is Val. Applicants further point out that the instant sequence SEQ ID NO: 147 (ending in ICSV) and the Gebe *et al.* sequence (ending in ICSG) are splice variants as shown in Exhibit A. Moreover, the instant claims recite that the instant sequence SEQ ID NO: 147 induces chondrocyte proliferation, a recitation that is not anticipated or rendered obvious by the Gebe *et al.* reference.

Accordingly, this rejections under 102(b) and 103(a) should be withdrawn.


Applicants also submit that the subject matter of the various claims in the present application were commonly owned at the time the invention was made.

The present application is believed to be in *prima facie* condition for allowance, and an early action to that effect is respectfully solicited.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 08-1641 (Attorney Docket No.: 39780-1618P2C9). Please direct any calls in connection with this application to the undersigned at the number provided below.

Respectfully submitted,

Date: September 8, 2003

  
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450134

NM\_005894

AA Sequence:

I C S G Stop

NT Sequence:

ATCTGCTCAGGATAGTAT

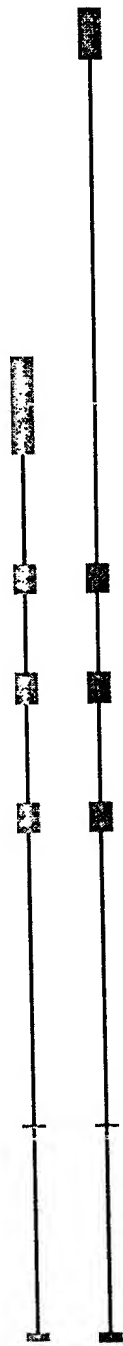
Splice junction



UNQ203  
CD5L

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DNA33100



DNA33100

AA Sequence:

I C S V Stop

NT Sequence:

ATCTGCTCAGTGTAGGTG

Splice junction

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Daryl Baldwin June 26, 2003